



Background on the Railroad Hours of Service Laws

The [Hours of Service Laws \(HSL\)](#) first enacted in 1907 and last amended in 1969, control how many hours train employees, dispatchers, and signal employees may work. The statute provides maximum on-duty periods and establishes how time on duty is to be calculated. The statute also provides minimum off-duty periods for train employees and signal employees.

Presently, because the HSL are currently governed by statute, not regulations, only Congress can amend them. The Federal Railroad Administration (FRA) has no regulatory authority to do so on its own. This limitation sets FRA apart from other federal transportation safety agencies, and has resulted in an environment wherein:

- A commercial airline pilot can fly up to 100 hours per month;
- A truck driver can be on duty up to about 260 hours per month;
- Shipboard personnel at sea cannot operate more than 360 hours per month, and only 270 hours per month when in port; and
- Locomotive engineers can technically operate a train up to 432 hours per month, which equates to more than 14 hours a day each of those 30 days.

However, it should be noted that to arrive at 432 hours, a locomotive engineer, as with the others noted above, would have to work to the statutory limits. These types of assignments are presently few in number and are diminishing in practice.

The FRA enforces the HSL, performs inspections to determine whether railroads are in compliance, and investigates complaints from employees, labor groups and the public about alleged violations. FRA uses inspections and complaint investigations as tools to carry out its enforcement functions.

Hours On Duty, Off Duty, and Limbo Time

Train Employee

- A train employee is defined as an individual engaged in or connected with the movement of a train. This includes locomotive engineers, conductors and brakemen. Train employees may spend up to 12 hours on duty. If they are on duty less than 12 hours in a 24-hour period, the statute requires that they receive 8 hours off duty. If they are on duty for 12 consecutive hours, the statute requires a minimum off-duty period of 10 hours.
 - Time on duty includes all time spent engaged in or connected with the movement of a train, time spent in transportation from the employee's reporting point to the location of an assignment, and any other service performed for the railroad. Time spent awaiting and in deadhead transportation to the point of final release, where the train employee will spend the required off-duty period, is neither time on duty nor time off duty, commonly referred to in the industry as "limbo time." There is no limit on the amount of limbo time that an employee may experience in a 24-hour period, and the combination of time on duty and limbo time may exceed 12 hours.

Dispatching Employee

- A dispatching service employee is an individual who dispatches, reports, transmits, receives, or delivers orders affecting train movement. Dispatching service employees in a location with two or more shifts are limited to 9 hours on duty in *any* 24-hour period. Dispatching service employees who work in a location where only a single shift is employed are limited to 12 hours on duty in *any* 24-hour period. Time on duty for a dispatching service employee includes any time spent in other service for the railroad during a 24-hour period in which the functions of a dispatching service employee are performed.

Signal Employee

- A signal employee is an individual employed by a railroad carrier who is engaged in installing, repairing or maintaining signal systems. Signal employees usually have a regularly assigned shift, and also respond to trouble calls as necessary. Time on duty for signal employees generally includes any time spent performing signal employee functions in a 24-hour period, whether during a regular shift or in response to trouble calls, and any time spent in other service to the railroad during the same 24-hour period. The maximum on-duty and minimum off-duty periods provided in the statute for signal employees within a 24-hour period are the same as for train employees.

Railroads and Scheduling Issues

Each railroad is prohibited from requiring or allowing an employee subject to the HSL to go on duty, or remain on duty, in violation of the law. The carrier is not excused from this obligation due to a lack of knowledge by its officers and agents' conduct, since the actions of officers and agents are considered to be actions of the carrier itself. A railroad that requires or allows an employee to remain or go on duty in violation of the HSL is subject to a civil penalty of at least \$550, but not more than \$27,000, for each occurrence.

Over-the-road train service ("pool crews") employees do not have regularly assigned off days. Pool crew employees are called to duty on a "first in-first out" basis, which can happen at any time of the day or night following their statutory off-duty period. Usually, collective bargaining agreements dictate the amount time in advance of the reporting time that the employee will be called to report for duty. Calls to report to duty may occur during the employee's statutory off-duty period (8 or 10 hours) to report for duty at the end of this period.

It should be noted that the purpose for HSL prescribing an 8 or 10 hour off duty period is to provide an employee the opportunity for meaningful rest. However, the required 8 or 10 consecutive hours off-duty time includes not only rest time, but also commuting, leisure and personal time. Accordingly, the actual amount of time available for sleep may be substantially less than the amount provided by the HSL.

Further, duty tours, may include traveling in "deadhead" status to a work site, actually operating or assembling a train, waiting on a train for transportation to a point of final release (limbo time) and then traveling to the point of final release. Thus limbo time, can and often does, exceed 12 hours. However, the actual time "engaged in or connected with the movement of a train" including deadheading to duty and any commingled service must not exceed 12 hours.

Fatigue in the Rail Industry

Fatigue has long been a fact of life for many railroad operating employees, given their long and often unpredictable work hours and fluctuating schedules. While commuter train crews often have some predictability in their work schedules, "unassigned" freight pool crews rarely do. The long hours, irregular work/rest cycles, and lack of regular days off, combined, can have a very deleterious effect on employee

alertness. Railroads are necessarily 24-hour businesses, and the effects of circadian rhythms challenge the alertness of even well-rested employees, particularly in the early morning hours.

Human factors are a primary or contributing factor in more than a third of all train accidents and constitute the leading cause of all train accidents. Fatigue is estimated to be at least a contributing factor in one of every four serious human factor caused train accidents. Crewmember fatigue is manifest through poor judgment, miscommunication, inattentiveness, and failure to follow standard operating procedures. The challenge is to ensure that crewmembers consistently have adequate opportunity to rest, do not suffer from medical disorders that can disrupt sleep, and are fully engaged in, and committed to, maintaining alertness.

Based on many studies, the current HSL allows work schedules that degrade job performance and contribute to a reduction in the safety of railroad operations. It is widely acknowledged that HSL restrictions are necessary to establish limits on the amount of work that individuals are allowed to perform, however they are not sufficient to ensure adequate sleep or prevent fatigue. Since human physiology cannot be altered, any 24/7 operation is accompanied by some risk of fatigue.

Behavioral science has progressed to the point that computer models can accurately predict the likely effect of specific sleep and rest patterns on employee performance. The models provide useful guidance to aid employee scheduling practices. However, previous attempts by rail labor and management to cooperatively improve fatigue management have not experienced steady progress.

FRA Proposal to Revise HSL by Regulation

FRA is a strong advocate for revising and modernizing the HSL. The agency believes the existing 100-year old HSL is antiquated and should be replaced with flexible regulations based on a current scientific understanding of fatigue and fatigue management. The National Transportation Safety Board (NTSB) and others have expressed the belief that the statutory maximums and minimums of the HSL are outdated and insufficient.

In its [*Federal Railroad Safety Accountability and Improvement Act*](#) proposal, FRA specifically asked Congress for regulatory authority to address hours of service. Under the FRA proposal, the HSL would be adopted as an interim FRA regulation that maintains all of the current provisions and protections. FRA would then utilize the extensive body of research findings in reviewing the issue of fatigue through its [*Railroad Safety Advisory Committee \(RSAC\)*](#), which includes representation from both rail management and labor. Then, based on the RSAC review, FRA would develop new, science-based regulations covering employee hours of service.

Of particular importance is the fact that the FRA proposal would permit railroads to comply with an approved fatigue management plan as an alternative to complying with the limits set forth in any prospective regulations. With these tools, FRA would be able to evaluate proposed fatigue management approaches to ensure they include an objective evaluation of numerous, more flexible work schedules using validated techniques.

**For more information contact:
FRA Office of Public Affairs
(202) 493-6024
www.fra.dot.gov
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